

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

PHYSIOTHERAPY  
CORPORATION,

Plaintiff,

v.

RICHARD W. RAUSCH,  
SOVEREIGN REHABILITATION OF  
ILLINOIS, LLC, d/b/a RAUSCH  
REHABILITATION SERVICES,  
INDEPENDENT PHYSICAL THERAPY  
NETWORK, or  
SOVEREIGN PHYSICAL THERAPY,

Defendants.

Case No.: 1:08-CV-02605

JOINT INITIAL STATUS REPORT  
FOR CASES ASSIGNED TO  
JUDGE GETTLEMAN

- A. The date and time this matter is set for a status report before the Court.

**Response:** September 3, 2008 at 9:00 a.m.

- B. The attorneys of record for each party, indicating which attorney is expected to try the case.

**Response:**

For Plaintiff Physiotherapy Corporation

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Defendant – Sovereign Rehabilitation of Illinois, LLC (Initial Responsive Pleading filed August 25, 2008)

- Lead Counsel (Pro Hac Applications to be filed):  
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C. The basis of federal jurisdiction.

**Response:** Diversity, 28 U.S.C. § 1332.

D. Whether a jury has been requested and by which party.

**Response:** Yes. A jury is requested by the Plaintiff and by Defendants

Rausch and Independent Physical Therapy Network.

E. The nature of the claims asserted in the complaint and any counterclaim, including a brief statement of the factual context of the case.

**Response:** Plaintiff Physiotherapy Corporation is a provider of physical therapy and related services at clinics across the country. Plaintiff Physiotherapy employed the individual Defendant Richard W. Rausch from 1998 through his resignation effective October 22, 2007. At the time his employment terminated, Defendant Rausch served as Physiotherapy's Regional Vice President – Operations.

In October 2007, Plaintiff Physiotherapy and Defendant Rausch entered into a Confidential Separation Agreement. It is Plaintiff's contention that Defendant Rausch violated this Agreement. Defendant Rausch denies that he violated the agreement and denies that certain provisions of that agreement are enforceable.

As a result of Defendant Rausch's actions, Plaintiff Physiotherapy claims breach of contracts (related to the October 2007 Agreement, as well as a prior Employment Agreement). Additionally, Plaintiff Physiotherapy claims that Defendant Rausch breached fiduciary duties. Defendant Rausch denies that he breached the contracts or any fiduciary duties. The allegation against the other Defendants is for alleged aiding and abetting the breach of fiduciary duties by Rausch. Finally, there is a request for injunctive relief and declaratory judgment against all Defendants.

F. The relief sought by any party, including computation of damages, if available.

**Response:** Plaintiff seeks damages and equitable relief for breach of two contracts and breach of fiduciary duties, as well as injunctive and declaratory relief. The computation of damages requires discovery.

G. The name of any party who or which has not been served, and any fact or circumstance related to service of process on such party.

**Response:** There is an issue for discovery related to Independent Physical Therapy Network, and whether that entity needs to be added as a party. Independent Physical Therapy Network has filed an Answer. There are no issues related to service of process.

H. The principal legal issues (including the citation to any legal authority related to such issue).

**Response:** Legal issues are breach of contract and breach of fiduciary duties, injunctive and declaratory relief. Additional issues involve whether there have been damages, the measure of any damages, the enforceability of the restrictive covenants, whether any of Plaintiff Physiotherapy's information is protectable, and whether Illinois law recognizes a claim for aiding and abetting a breach of fiduciary duty under the facts alleged in this case.

I. The principal factual issues, including the parties' respective positions on those issues.

**Response:** Whether Defendant Rausch breached the agreements even if they are enforceable. Whether Defendant Rausch owed Plaintiff a fiduciary duty and whether he breached such duty. To the extent Defendant Rausch owed a fiduciary duty to Plaintiff, whether Sovereign Rehabilitation of Illinois, LLC aided and abetted any such breach.

J. A brief description of all anticipated motions.

**Response:** Defendants Rausch and Sovereign Rehabilitation of Illinois, LLC anticipate filing motions for summary judgment.

K. A proposed discovery plan pursuant to F. R. Civ. P. 26(f), including a brief description of what discovery has been taken, if any, what remains to be taken, a schedule for

expert designations and discovery, and a proposed discovery cutoff.

**Response:** The parties propose the following discovery plan:

Written Discovery may commence immediately.

Depositions begin October 6, 2008

Expert Designations by December 1, 2008

Expert Discovery begins December 1, 2008

Discovery Cutoff January 30, 2008

L. The earliest date the parties would be ready for trial and the probable length of trial.

**Response:** March 23, 2009, and trial is estimated to take three to five days.

M. The status of any settlement discussions and whether a settlement conference would be appropriate. In this regard, counsel are directed to consider and discuss with their respective clients and each other the possibility of attempting to resolve this matter through alternative dispute resolution (ADR), and to briefly set forth the results of such consideration and discussion. For Lahnam Act cases, the parties must comply fully with Local General Rule 5.10.

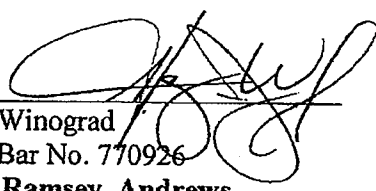
**Response:** Plaintiff Physiotherapy believes that discovery is necessary before any substantive settlement conference is held. Defendant Rausch is prepared to discuss settlement immediately. To the extent Sovereign Rehabilitation of Illinois, LLC is not dismissed, it believes settlement discussions can ensue immediately, as Plaintiff appears to have no cognizable damages.


N. Whether the parties will consent to trial before a magistrate judge.

**Response:** The parties do not consent to trial before a magistrate judge.

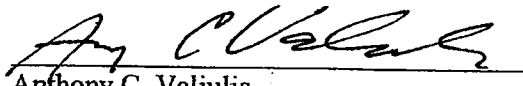
Dated 26<sup>th</sup> August, 2008.

Attorneys for Plaintiff  
Physiotherapy Corporation

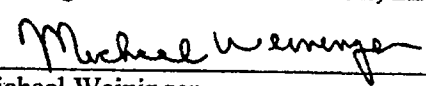
  
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